

1 IN THE KENTUCKY PUBLIC SERVICE COMMISSION

2
3
4 IN RE: INVESTIGATION:

5 Case No. 2003-00433
6 AN ADJUSTMENT OF THE GAS AND ELECTRIC RATES,
7 TERMS, AND CONDITIONS OF LOUISVILLE GAS AND
8 ELECTRIC COMPANY

9 and

10 Case No. 2003-00434
11 AN ADJUSTMENT OF THE ELECTRIC RATES, TERMS, AND
12 CONDITIONS OF KENTUCKY UTILITIES COMPANY

13 * * *

14
15 SWORN STATEMENT

16 OF

17 KENT BLAKE

18 AUGUST 10, 2005
19
20

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A P P E A R A N C E S

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1 The sworn statement of KENT BLAKE,
2 taken in the offices of Goldberg & Simpson,
3 3000 National City Tower, 101 South Fifth Street,
4 Louisville, Kentucky, on Wednesday, the 10th day of
5 August, 2005, at approximately 2:35 p.m.

6
7 EXAMINATION

8
9 BY MR. GOLDBERG:

10 Q. Would you state your name for us.

11 A. Kent Blake.

12 Q. Okay. And your business address?

13 A. 220 West Main Street, Louisville,
14 Kentucky, 40202.

15 Q. Okay. And where do you work?

16 A. For LG&E Energy Services.

17 Q. All right, sir. And what do you do
18 for LG&E Energy Services?

19 A. I am director of state regulation and
20 rates.

21 Q. What is the relationship of energy
22 services to LG&E Energy, LLC?

23 A. It is a subsidiary housing a number of
24 the shared employees who serve both Louisville Gas &
25 Electric Company, Kentucky Utilities and other

1 subsidiaries.

2 Q. Okay. What are your duties in your
3 position at LG&E Energy?

4 A. I'm responsible for directing all
5 state regulatory and rate activities. That would
6 entail development and implementation of state
7 regulatory strategy, regulatory compliance and
8 reporting, tariff administration and managing
9 proceedings before state commissions.

10 Q. Would Public Service Commission be one
11 of those commissions that you have contact with?

12 A. The Kentucky Public Service
13 Commission?

14 Q. Yes.

15 A. Yes, they would.

16 Q. What is the interrelationship between
17 what you do and what Mr. Beer and what Mr. Siemens do
18 for LG&E, if I can use the general term?

19 A. Effective I think it was in -- it was
20 in October or November of last year, we had a
21 reorganization within the rates and regulatory area
22 and divided state regulatory matters and federal
23 regulatory matters. Mike Beer is responsible for
24 federal regulatory matters. I've got state
25 regulatory matters. George Siemens, then, is more of

1 a governmental affairs dealing more with legislation.

2 Q. Do you report to Mr. Beer?

3 A. No, I do not.

4 Q. Who do you report to?

5 A. John McCall.

6 Q. Okay.

7 A. I should clarify that during the rate
8 case at that time I was reporting to Mr. Beer.

9 Q. Okay. Let's go back to that point in
10 time so that you and I are communicating with each
11 other. Let's go back to the year 2002 through
12 June 30th of 2004.

13 A. Okay.

14 Q. Tell me what your position was and
15 what you did during that period of time.

16 A. I'm sorry, when did you start? What
17 period of time?

18 Q. Start January 1st, 2002.

19 A. Okay. I actually rejoined LG&E Energy
20 in the fall of 2002. Prior to that, for four years I
21 was employed by Mirant Corporation in Atlanta. I
22 rejoined the company, assumed a position in the
23 finance department, director -- I believe the title
24 at that time was director of finance and business
25 analysis. That became director of business

1 development where I was responsible for mergers,
2 acquisitions and dispositions. So I had no
3 involvement with the regulatory and rates function of
4 LG&E up until the fall of 2003. At that time, I
5 assumed a role of director of regulatory initiatives.
6 And again, it wasn't until sometime after the rate
7 case that this last reorganization occurred.

8 Q. All right. So from the fall of 2003
9 through June 30th of 2004, your position was, again,
10 please?

11 A. Director of regulatory initiatives.
12 Not dissimilar to my current role. I had the same
13 staff. There was simply both federal and state
14 regulation reported through Mike Beer at that time,
15 so I was -- in addition to his secretary, I was
16 Mike's only direct report at that time.

17 Q. Again, when did you come back to the
18 company?

19 A. In August of 2002.

20 Q. Okay. From August of 2002 through the
21 position you've just described in the fall of 2003,
22 did you have any contact with the Kentucky Public
23 Service Commission?

24 A. No, I did not.

25 Q. It was not part of your job duties,

1 was it?

2 A. No, it was not.

3 Q. Did you participate in any --

4 A. Let me -- just one small clarification
5 there.

6 Q. Sure.

7 A. I did participate in an approximate
8 15-minute interview as part of the -- I believe it
9 was the earnings sharing mechanism audit that was
10 conducted by an outside firm, commissioned by Public
11 Service Commission. They -- they learned that given
12 my position, they did not need to speak with me.

13 Q. Okay. Other than the contact with
14 regard to the earnings sharing mechanism audit, did
15 you have any contact with the Public Service
16 Commission staff?

17 A. No, I did not.

18 Q. Or members during that period of time?

19 A. No, I did not.

20 Q. Okay. Did you participate during that
21 period of time -- again, this is 2002 through fall of
22 2003, in the assuming of new duty -- in any work on
23 trying to determine whether a rate case should be
24 filed by LG&E and/or KU?

25 A. No, I did not.

1 Q. So you had nothing to do with the rate
2 cases as they subsequently became known, in your
3 prior position prior to the fall of 2003.

4 A. Correct.

5 Q. Let me ask you that same question with
6 regard to matters dealing with an entity known as
7 North American Stainless.

8 A. Okay.

9 Q. Did you have anything to do with North
10 American Stainless prior to the fall of 2003?

11 A. No, I did not.

12 Q. Okay. Fall of 2003, you assume a new
13 role. Are you a lawyer, by chance?

14 A. No, I'm not.

15 Q. What is your training and education?

16 A. Educational background was accounting.

17 Q. Do you have a degree from --

18 A. University of Kentucky.

19 Q. All right, sir. Fall of 2003, did you
20 assume responsibilities for the North American
21 Stainless case? Was that part of your duties?

22 A. In connection with others in my group,
23 yes.

24 Q. Okay. Did you have anything to do
25 with the rate cases which were filed -- notice of

1 intent filed end of November 2003?

2 A. Yes, I did.

3 Q. Okay. What was your participation
4 with regard to the rate cases?

5 A. Generally, I facilitated and directed
6 all activity associated with the rate cases.

7 Q. Okay. Now, again, help me. What is
8 the difference between what you were doing and what
9 Mr. Beer was doing with regard to the rate cases?

10 A. It was more of a -- I would say a
11 joint effort. I'm talking about three rate cases on
12 the electric side. We hadn't filed a rate case in
13 20 years at KU, 14 years at LG&E, so it was a very
14 large job, involved a lot of activity. So I would
15 say many of the responsibilities were shared between
16 myself and Mr. Beer.

17 Q. Did you report in the fall of 2003 to
18 Mr. Beer?

19 A. Yes, I did.

20 Q. Okay. So you were working in
21 conjunction with him on the --

22 A. Right.

23 Q. -- rate cases.

24 A. Right.

25 Q. Okay. And can you identify for me who

1 the external personnel you were using -- "you" being
2 LG&E Energy, LLC -- was using to work on the rate
3 cases?

4 A. We had engaged the Prime Group,
5 specifically Steve Seelye. From a counsel standpoint
6 we'd engaged Ogden, Newell & Welch. Specifically
7 three attorneys from that firm were working on the
8 case. Kendrick Riggs was the lead attorney. In
9 addition to Kendrick, Greg Cornett and Allyson
10 Sturgeon were -- had involvement. And Bob Watt from
11 the firm of Stoll, Keenon was also engaged.

12 Q. Was Mr. Sales engaged at that point?

13 A. He -- he took over outside counsel
14 responsibilities for the North American Stainless
15 filing.

16 Q. Okay. Now, with regard to consultants
17 and/or expert witnesses, you've identified
18 Mr. Seelye. Was there anybody else?

19 A. There would have been some other
20 personnel from that firm, from the Prime Group.

21 Q. Are you familiar with a gentleman by
22 the name of Robert Rosenberg or Bob Rosenberg?

23 A. Oh, yes. I'm sorry, yes. He was our
24 return on equity expert witness.

25 Q. Anybody else?

1 A. We engaged a depreciation expert
2 witness. Earl Robinson was his name, and I don't
3 remember his firm.

4 Q. Do you have a recollection of
5 Mr. Robinson or Mr. Rosenberg actually coming to
6 Kentucky and testifying as experts?

7 A. Yes.

8 Q. They both did testify?

9 A. Yes, they did.

10 Q. And thus were present at the Public
11 Service Commission?

12 A. Right.

13 Q. Do you have the addresses for both of
14 those gentlemen presently?

15 A. I don't have them with me, but we do
16 at the office.

17 Q. Fair enough. Thank you. Okay. Back
18 to fall of 2003 -- and I want to separate the time
19 frames here -- notice of intent to file is end of
20 November 2003. Rate case is actually filed late
21 December 2003.

22 A. Yeah, December 29th.

23 Q. Okay. During that period of time, did
24 you have any contact with any member of the staff of
25 the Public Service Commission about the two rate

1 cases?

2 A. No.

3 Q. Did you have any contact with any
4 Public Service Commission staff member with regard to
5 the North American Stainless case?

6 A. No.

7 Q. Okay. And let me be specific with you
8 and give you some names of staff members and see if
9 you know who these people are.

10 A. Okay.

11 Q. Do you know Richard Raff?

12 A. Yes.

13 Q. And you specifically had no contact
14 with him during this timeframe about the rate cases.

15 A. True.

16 Q. Or North American Stainless.

17 A. Right.

18 Q. Okay. Mr. Isaac Scott, do you know
19 him?

20 A. Yes, I do.

21 Q. Okay. Same question. Any contact
22 with him about the rate cases?

23 A. No.

24 Q. Mr. Jeff Shaw?

25 A. Yes.

1 Q. Okay. Any contact with him about the
2 rate cases?

3 A. No.

4 Q. All right. Do you know a Mr. Faud
5 Sharifi?

6 A. No.

7 Q. Do you know Ms. Andrea Edwards?

8 A. Yes.

9 Q. Did you have any contact with her
10 about the rate cases during this period of time?

11 A. No.

12 Q. Mr. Bob Amato?

13 A. Yes.

14 Q. Did you have any contact with him?

15 A. No.

16 Q. Mr. Tom Dorman, are you familiar with
17 Mr. Dorman?

18 A. I'm familiar with who he is, and I
19 believe I have met him once in passing.

20 Q. With regard to the rate cases, did you
21 have any communication with him during that period of
22 time?

23 A. No.

24 Q. Okay. Let me ask you that same set of
25 questions with regard to the commission members.

1 A. Okay.

2 Q. Do you believe you had any contact
3 with any of the commission members about the rate
4 cases, including North American Stainless, from
5 November of 2003 through the end of the year 2003?

6 A. No.

7 Q. At any time in the year 2003, did you
8 have any contact about the rate cases or North
9 American Stainless with any member of the commission?

10 A. I'm sorry, during what timeframe?

11 Q. The whole year 2003.

12 A. No.

13 Q. Okay. And let me ask you that same
14 question with regard to the staff. Any contact with
15 any member of the staff for the whole of the year
16 2003 about the rate cases?

17 A. No.

18 Q. Okay. Now, beginning in year 2004 --

19 A. Other than through formal filings and
20 the record of the proceeding.

21 Q. All right. Fair enough. Tell me, in
22 the year 2004 -- and let's separate this out -- prior
23 to April 28th, 2004, which was the date of the first
24 informal conference at the Public Service Commission,
25 what was your participation in the two rate cases in

1 the North American Stainless?

2 A. I'm sorry, between what periods?

3 Q. January 1st, 2004 --

4 A. Okay.

5 Q. -- and April 28th, 2004.

6 A. At that point we would have already --
7 I would have already had completion of the
8 application and the filing of that, so it would have
9 been responding to data requests of the commission
10 staff and parties to the case, the development of
11 rebuttal testimony and any other filing that was made
12 in the record of the proceeding at that time.

13 Q. All right, sir. Did you participate
14 in the motion to consolidate the North American
15 Stainless case with the two rate cases?

16 A. Yes.

17 Q. Okay. Now, as it relates to the
18 staff, other than filings of record, did you have any
19 communication with the staff of the Public Service
20 Commission, as I've defined them for you, about the
21 rate cases from January 1st, 2004 through April 28th,
22 2004?

23 A. No.

24 Q. Okay. Let me ask you that same
25 question with regard to commission members, any

1 contact with them?

2 A. No.

3 Q. Have you met any of the commission
4 members? Had you met any of the commission members?

5 A. The commission members that heard the
6 rate case?

7 Q. Yes.

8 A. At that point in time, I think I'd met
9 Chairman Goss. When he assumed his position, there
10 was an open reception, I don't know, 50 to 70 people
11 at the Public Service Commission. So I think I met
12 him there, shook his hand, you know, small talk.

13 Q. Other than that conversation and
14 meeting him, had you had any other contact with him?

15 A. No.

16 Q. How about Ms. Ellen Williams --

17 A. No.

18 Q. -- had you met her?

19 A. No.

20 Q. Okay.

21 A. Not at that time.

22 Q. All right. Had you at that time or
23 prior in time met former Chairman Marty Huelsman?

24 A. Other than at the reception I referred
25 to where the commission welcomed Chairman Goss, no.

1 Q. Okay. Let me ask you the same
2 question with regard to former commission member Gary
3 Gillis, had you met him?

4 A. Same response. I met him at that same
5 reception.

6 Q. Are you familiar with commission
7 member Bob Spurlin?

8 A. I am familiar with him by name, but I
9 never met him.

10 Q. And I trust no contact with him.

11 A. No.

12 Q. Okay. Now, we had talked about staff
13 members and commission members. Between January 1st,
14 2004 and the first informal conference, April 28,
15 2004, did you participate in discussions with the
16 interveners?

17 A. With certain of the interveners.

18 Q. Okay. And let's define who you
19 believe the interveners were.

20 A. The interveners in the proceedings
21 included the attorney general's office, the
22 industrial advocacy group, KIUC, Kroger, Department
23 of Energy, Department of Defense. There were, I
24 think, four low income advocacy groups. North
25 American Stainless became a party to not only the

1 rate case, but the entire consolidated proceeding.
2 That's all I can recall. I remember there being
3 somewhere in the neighborhood of ten to twelve
4 intervening parties.

5 MR. GOLDBERG: Off the record a
6 moment.

7 (OFF THE RECORD)

8 Q. Tell me, of the interveners, who you
9 personally had contact with during that period of
10 time?

11 A. I had contact with the KIUC. And
12 prior to the April 28th conference, that's the only
13 one that I can recall at this time. I recall that we
14 extended an invitation to meet with all
15 interveners -- oh, sorry. One that I did leave out
16 that I met with was Lexington-Fayette Urban County
17 Government. But we'd extended an invitation to all
18 intervening parties to meet with them so that we
19 could -- as a company, could understand their issues.

20 Q. Okay. But those are the only two you
21 participated in discussions with.

22 A. Yes. Those are the only two that I
23 recall.

24 Q. Okay. April 28th, 2004, date of the
25 first informal conference, did you go to the informal

1 conference?

2 A. Yes, I did.

3 Q. Tell me what you recall of those days'
4 events.

5 A. I recall we met in what I believe is
6 referred to as hearing room B. We discussed first
7 the procedural schedule for the hearing, the -- any
8 witnesses that could be excused from the hearing, the
9 order of witnesses. Once that was resolved, we
10 discussed the -- the ESM proceeding.

11 Q. Earnings sharing mechanism?

12 A. Yes, which I believe at that time had
13 been consolidated with the rate case, but I don't
14 recall technically whether it was consolidated at
15 that time. But we discussed possible settlement of
16 that mechanism.

17 Q. Were these discussions all with the
18 interveners present?

19 A. It was with all interveners present.
20 And we essentially were picking up from
21 discussions -- attempted settlement discussions
22 between ourselves, the KIUC and the attorney general
23 which did not result in a settlement back the -- I
24 think it was the previous winter.

25 Q. Did you yourself participate in the

1 previous winter in those discussions with the
2 attorney general's office?

3 A. Yes.

4 Q. You had identified for me
5 conversations that you participated in with KIUC and
6 Lexington-Fayette County government, but not the
7 attorney general.

8 A. Right. I'd neglected to mention this
9 one because, again, at that time I'm pretty sure the
10 earnings sharing mechanism case had not been
11 consolidated with the rate case. And there was no
12 discussion of the rate case in those settlement
13 discussions. It was strictly focused on the earnings
14 sharing mechanism proceeding.

15 Q. Fair enough. April 28th, 2004. Did
16 the parties spend all day at the Public Service
17 Commission?

18 A. We did. And again, went through
19 procedural schedule, earnings sharing mechanism, and
20 I believe we began initial discussions on issues of
21 the rate case.

22 Q. Staff present on that date?

23 A. They were.

24 Q. Were they present in the discussion --
25 settlement discussions between the parties?

1 A. Yes, they were. At the -- I guess
2 there were -- it was sort of a half circle of tables.
3 The -- Richard Raff, Isaac Scott and Jeff Shaw sat on
4 one side. Company representatives sat on the other
5 side. And in the table across those two were
6 representatives of the attorney general's office and
7 the KIUC. Other intervening parties -- there may
8 have been other staff members present. Everyone else
9 were in the -- the chairs out behind this table.

10 Q. And everyone was in the same room, I
11 take it.

12 A. Yes, everybody was in the same room.

13 Q. Okay. What role, from your vantage
14 point, did you believe the staff, the three gentlemen
15 that you've identified, was playing?

16 A. They -- I believe they were playing a
17 facilitator role.

18 Q. Any discussions on April 28th, 2004
19 between yourself and any member of the commission?

20 A. Any member of the commission or
21 commission staff?

22 Q. Yes, commission.

23 A. No.

24 Q. Okay. Any conversations between you
25 and any member of the commission staff?

1 A. Only in -- and I'm sorry, could you
2 repeat the dates again?

3 Q. April 28th.

4 A. April 28th. There was discussion in
5 the room with all parties present. There may have
6 been pleasantries exchanges during breaks, but no
7 discussions of substance to the case outside of that
8 room with all parties present.

9 Q. Okay. April 29th is a Thursday, and
10 April 30th is Oaks Day.

11 A. Right.

12 Q. Any discussions on April 29th or
13 April 30th that you participated in?

14 A. Yes. At the end of the day on
15 April 28th at the prehearing informal conference, we
16 determined that we had made -- all parties agreed we
17 had made good progress and we should come back the
18 next day to see if we couldn't make more progress
19 toward settling some of the issues or all of the
20 issues of the case. So we met again on April 29th in
21 the same room, all parties present.

22 Q. Okay. There's no formal hearings or
23 informal conferences scheduled for that day?

24 A. No. The hearing was scheduled to
25 start I believe on the following Tuesday, May 4th.

1 Q. All right, sir. With regard to the
2 discussions on April 29th, were all parties present?

3 A. To my recollection, yes.

4 Q. Okay. Was the staff present?

5 A. Yes.

6 Q. Same people present?

7 A. Same people.

8 Q. Okay. Do you recall any conversations
9 with the staff on that day, you personally?

10 A. Outside of the -- the group
11 discussion?

12 Q. Yes.

13 A. The only discussion that I had was --
14 at one point during the discussion, the company
15 representatives were asked to leave the room. And we
16 stayed out of the room for a couple of hours. And at
17 one point during that period of time, Jeff Shaw came
18 into the room to ask a question about one of the
19 adjustments that we had proposed in the rate case.

20 Q. Okay.

21 A. A clarifying question.

22 Q. Was he there -- was it your belief
23 that he was there in a representative capacity for
24 the interveners' group?

25 A. Yes.

1 Q. Was the function the staff was serving
2 on the 29th as facilitator -- I'm sorry, on the 28th,
3 also the function they were serving on the 29th?

4 A. Yes.

5 Q. Other than the conversation with
6 Mr. Shaw you've just told us about, any other
7 communication with the staff?

8 A. No. Again -- again, other than
9 possible small talk during breaks.

10 Q. Okay. I take it nothing on the merits
11 of the cases --

12 A. No.

13 Q. -- that you can recall?

14 Any conversations with commission
15 members on April 29th?

16 A. No.

17 Q. All right. April 30th, did you
18 participate in any settlement discussions?

19 A. Yes, I did.

20 Q. Okay. Tell me what you recall of the
21 events of April 30th.

22 A. I believe it was midday. Myself, John
23 McCall, Steve Seelye and Kendrick Riggs went to the
24 attorney general's office and met with Dennis Howard
25 of the attorney general's office, Mike Kurtz of the

1 KIUC, and Richard Raff, who participated by phone. I
2 believe he was at or on his way to the Oaks that day.

3 Q. Okay. Anybody else in the attorney
4 general's office participate?

5 A. Not in that meeting. I believe Betsy
6 Blackford, who had been participating in the
7 meetings, was on vacation or had a trip scheduled for
8 that day.

9 Q. Okay. And how long was the meeting?

10 A. I don't recall.

11 Q. Hour, two hours?

12 A. It would have been an hour or two, I
13 think.

14 Q. Okay. And do you have a general
15 recollection of what was discussed at the meeting?

16 A. I do. And again, I should clarify
17 that. All other parties to the case were invited to
18 attend. Other parties to the case up to that point
19 had been dealing with very specific issues that they
20 believed had been appropriately settled with all
21 parties. With regard to the revenue requirement, the
22 KIUC and attorney general had taken the lead role.
23 And so other parties were -- it appeared to me, were
24 looking to the KIUC and the attorney general to
25 represent all parties in the revenue requirements

1 discussion, and that was the purpose of that meeting
2 at the attorney general's office.

3 Q. Okay. Did Mr. Howard, from your
4 perspective on April 30th, have authority from his
5 client, the attorney general, to deal with the
6 issues?

7 A. I believe he had the authority to -- I
8 believe he had the authority to deal with the issues,
9 but at that point all parties were discussing the
10 revenue requirement on a recommended basis. All
11 parties had some level of approvals required after
12 that meeting.

13 Q. During the course of your meeting, did
14 you witness Mr. Howard seeking approval from the
15 attorney general or someone else on the attorney
16 general's staff during the course of the meeting?

17 A. During the course of that meeting, no.

18 Q. Fair enough. Anything else you recall
19 about the meeting of April 30th?

20 A. Yes. I guess during the meeting of
21 April 29th, I'd mentioned that the company was asked
22 to leave the room and a meeting ensued with the
23 intervening parties. When we had returned to that
24 room, commission staff, in the form of Richard Raff,
25 had mentioned the revenue requirement. Up to that

1 point where we were trying to deal with issues one by
2 one, we had a list of uncontested issues that
3 everyone agreed to, had the same position, a list of
4 contested issues that we were trying to pick off. It
5 had become apparent to me -- and I think to many
6 people in the room -- that no party was willing to
7 change their position on any individual issue without
8 knowing how the entire revenue requirement would be
9 resolved.

10 So when we returned to the room, a
11 discussion ensued in which the commission staff
12 indicated that based on their review of the record to
13 date and analysis, they had -- their analysis was
14 closer to that of the company's than the intervening
15 party that had offered an alternative revenue
16 requirement.

17 Q. This occurred on the 29th?

18 A. That was on the 29th, yes.

19 Q. Okay. To your knowledge, was the
20 staff requested for their viewpoint on revenue
21 requirement prior to giving it?

22 A. They were not requested by the
23 company. And to my knowledge, they were not
24 requested to provide that by anyone.

25 Q. Do you know why they voluntarily

1 offered their view?

2 A. I mentioned before I think they were
3 playing the role of facilitator, so I think they were
4 merely trying to stimulate discussion between the
5 parties in the hopes of reaching a settlement.

6 Q. Do you know whether or not --

7 A. That obviously involved some
8 speculation on my part.

9 Q. Do you know whether or not the
10 interveners actually asked them to put forward their
11 position or not during the course of time you were
12 out of the room?

13 A. I do not know. I was not in the room.

14 Q. Fair enough. April 30th, do I take it
15 there was no resolution of the revenue requirement
16 issue by the end of the meeting?

17 A. On April 30th meeting --

18 Q. Yes.

19 A. -- at the attorney general's office?

20 Q. Yes.

21 A. Actually I was under the impression
22 that there was and that all parties were taking back
23 the recommendation that closely resembled what was --
24 had been discussed the previous day. There was some
25 discussion on what we had put forward at the start of

1 the meeting. We had taken numbers that were
2 discussed from a revenue requirement standpoint, that
3 were referenced by the commission staff and had
4 attempted to come up with those numbers ourselves
5 through adjustments and what could you include, what
6 could you exclude to get back to that number. And as
7 a result, we had laid out certain conditions that the
8 company would require before they would accept such a
9 revenue requirement. And that was the subject of
10 discussion at this meeting with the attorney
11 general's representative and the KIUC's
12 representative.

13 Q. As you left the meeting on April the
14 30th, did you believe there was an agreement on
15 revenue requirement as to electricity with the
16 attorney general?

17 A. I believe there was an agreement with
18 the exception of one possible issue, which was --
19 dealt with one of the proposed adjustments that we
20 had made in the rate case related to certain
21 increase-in-demand charges from our OMU contract that
22 we had put as a condition to accepting revenue
23 requirement, that we would be able to recover that
24 amount through the ECR mechanism.

25 Q. OMU stands for?

1 A. Owensboro Municipal Utilities. And
2 ECR would be environmental cost recovery mechanism.
3 That -- Dennis Howard, nor Richard Raff necessarily
4 agreed with that position, nor did Mike Kurtz. Mike
5 Kurtz of the KIUC proposed a -- in the spirit of
6 settlement, proposed a solution whereby rather
7 than -- I believe the number was about \$2 million per
8 year -- rather than \$2 million per year, we would
9 make it \$1 million per year. And the company would
10 begin to recover that in April of 2005 after the
11 earnings sharing mechanism expired in March of 2005.
12 And I believe that all parties were going to take
13 that recommendation back on a recommended basis.

14 Q. Other than that particular issue, were
15 other revenue requirements issued on electricity
16 agreed to at that point?

17 A. I believe they were, but again, it was
18 on a recommended basis. Mike Kurtz of the KIUC
19 needed to speak with his -- the members of KIUC that
20 he was representing. Dennis indicated he needed to
21 go back and talk with the front office at the AG to
22 get approval. We needed to get internal approvals as
23 well. But it was my belief that all parties in that
24 room, with the exception of this one issue, were
25 feeling pretty good, that we had -- we were near a

1 settlement.

2 Q. All right. And do you recall what the
3 amount of the revenue requirement increase would be?

4 A. The total across all three utilities,
5 I believe, was \$101.4 million.

6 Q. Okay. Do you believe that Mr. Howard
7 was going to recommend that amount to the front
8 office of the attorney general? Is that your
9 understanding?

10 A. That was my belief.

11 Q. Okay. Who -- what was your
12 understanding of who comprised the front office?

13 A. I didn't know. I assumed that
14 ultimately it included the Attorney General Stumbo,
15 and I wasn't sure who else was in that group.

16 Q. Am I understanding this correctly that
17 the term "front office" was a term used by
18 Mr. Howard?

19 A. Yes.

20 Q. You have a specific recollection of --

21 A. What's that, that use of the term
22 "front office"?

23 Q. Yes.

24 A. Yes.

25 Q. Okay.

1 A. And honestly, it was either first used
2 by Mr. Howard or Ms. Blackford, both of the attorney
3 general's office.

4 Q. Ms. Blackford did not participate in
5 the conversation of April 30th?

6 A. No, she did not.

7 Q. Just Mr. Howard.

8 A. Yes.

9 Q. All right. Did you do any negotiation
10 on either Derby Day, May the 1st, or Sunday, May the
11 2nd?

12 A. No.

13 Q. Okay. On May the 3rd, 2004,
14 forward --

15 A. Are we at Monday now?

16 Q. Yes.

17 A. Okay. It seemed like one long day,
18 but your reference to Derby is helping refresh my
19 memory.

20 Q. Good. Did you participate in any
21 negotiations on May the 3rd, Monday?

22 A. Not that I recall.

23 Q. Okay. May the 4th, 2004, scheduled to
24 be the first day of hearing.

25 A. Yes.

1 Q. Did you come to the Public Service
2 Commission?

3 A. Yes, I did.

4 Q. Okay. And tell me what you recall of
5 the events of the day, May 4th, 2004.

6 A. The hearing began, commission took
7 public comment in connection with the rate case. The
8 commission was then advised -- and I believe it was
9 by our outside counsel, Kendrick Riggs -- was advised
10 that the parties had -- had productive settlement
11 discussions and felt that if given more opportunity
12 to discuss the matter, could potentially bring
13 forward a partial or complete resolution to the case.
14 And someone -- one of the attorneys of one of the
15 parties of the case -- again, it may have been
16 Kendrick Riggs -- made a motion that the hearing be
17 adjourned for purposes of settlement discussion.

18 Q. Was that done?

19 A. It was.

20 Q. At the time Mr. Riggs made this
21 statement on the record, was this the beginning of
22 the day, May 4th, 2004, to the best of your
23 recollection?

24 A. I believe the hearing -- hearings
25 typically start at about 9:00 a.m. over there, and I

1 think this one did as well. There were some, you
2 know, administrative, getting-started processes that
3 we went through. And then public comment was taken,
4 so it would have been late morning, I think, when the
5 hearing was adjourned.

6 Q. Okay. Do you know whether or not
7 anybody on the LG&E team had found out whether the
8 recommended -- recommendations of Friday, April the
9 30th, by counsel for KIUC and the attorney general
10 had been acted upon?

11 A. I don't recall on -- with regard to
12 the KIUC. The only thing that I recall is some
13 general discussion that it occurred -- maybe occurred
14 among counsel of our company and counsel of the
15 attorney general, possibly the KIUC, that there was
16 some uncertainty as to whether or not we really had
17 reached a settlement.

18 Q. Did you know what the uncertainty was
19 with regard to, which party?

20 A. I did not at that time.

21 Q. Okay. All right. Anything else you
22 recall about April -- I'm sorry, May the 4th?

23 A. We did return to hearing room B to
24 resume settlement discussions, which went on for, as
25 I recall, the balance of the day. At the end of the

1 day -- and there were still some remaining -- sort
2 of -- I'd characterize them as tying-up-loose-end
3 discussions for purposes of developing a settlement
4 document with all parties to the case on their
5 particular issues. But at the end of that day, my
6 recollection was we had reached unanimous settlement
7 on all issues to the case. And a settlement document
8 in draft form had been prepared, and the parties were
9 going to reconvene the next morning for the purpose
10 of executing that settlement agreement.

11 Q. Do you have a recollection of sometime
12 on May the 4th, 2004 learning that both KIUC and the
13 attorney general had accepted the recommendations of
14 their counsel?

15 A. I'm trying to remember exact
16 statements that were made, and I don't recall, but
17 that was my belief at the time.

18 Q. Do you have a recollection of
19 Mr. Kurtz or Mr. Boehm, on behalf of KIUC, and
20 Mr. Howard, on behalf of the attorney general,
21 sometime during the day on May 4th, 2004 saying that
22 there was agreement at the \$101.4 million number?

23 A. Again, I can't recall specific
24 comments that were made. I just recall that there
25 were -- there was an agreement that day, and we were

1 intending to go back that next morning and execute
2 the settlement agreement.

3 Q. With regard to this agreement, tell me
4 what triggers in your mind that there was an
5 agreement on May the 4th, 2004 on revenue
6 requirements on electricity.

7 A. What triggers that --

8 Q. Yes, that belief.

9 A. Because our outside counsel had taken
10 the lead in drafting that agreement, and I
11 participated in all of the discussions that day and
12 left late that evening with a sense of -- of relief
13 and accomplishment that we were done.

14 Q. Okay. And the drafter of the
15 document, who was that?

16 A. The drafter was Kendrick Riggs, our
17 outside counsel, but he then was distributing that to
18 all parties to the discussion and to the settlement
19 agreement to ensure that it accurately captured what
20 had been agreed to.

21 Q. What role was Mr. Watt playing?

22 A. Mr. Watt was playing essentially our
23 co-counsel, but was more the lead counsel on the gas
24 component. But it was a shared responsibility.
25 Kendrick Riggs was the principal mouthpiece for the

1 company during the settlement discussions. During
2 the hearing room -- or in the hearing room, Mr. Riggs
3 and Mr. Watt shared cross-examination of the attorney
4 general's witnesses.

5 Q. Okay. Anything else you recall about
6 the events of May 4th?

7 A. No.

8 Q. Okay. May 5th, which would have
9 been --

10 A. Wednesday.

11 Q. -- Wednesday. Tell me what you recall
12 of the events of May the 5th.

13 A. I recall that we met, again in hearing
14 room B, to sign the agreement. I recall during --
15 while we were in the room, Dennis Howard made the
16 announcement that he had been told to cease
17 settlement discussions. And I'd gotten the
18 impression that he'd just received word, had just
19 gotten a message or phone call telling him to cease
20 settlement discussions, and that he was going to do
21 that, but that he would remain in the room as a -- as
22 an observer. So he then -- as I mentioned before, he
23 was sitting at the front table. He simply stepped
24 back and sat down in the I guess what were more the
25 seats behind that front table.

1 Q. Okay. What was the reaction of the
2 persons in the room, including yourself?

3 A. Frustration, shock, because we thought
4 we had a settlement agreement. And we didn't know
5 where this was coming from, didn't know what the
6 basis was for it.

7 Somewhere during that -- I believe it
8 was that day and not the day before -- I believe it
9 was that day word began circulating around the
10 room -- we got word that Attorney General Stumbo was
11 conducting a press conference in front of the Public
12 Service Commission's office. At that time, I didn't
13 know the content of it, but ...

14 Q. Did you have an understanding on the
15 morning of the 5th that there was no longer an
16 agreement on revenue requirement on electricity or no
17 longer an agreement on all things?

18 A. I believe John McCall met with
19 Attorney General Stumbo. And after that meeting he
20 came away from that meeting and conveyed to me that
21 there was an agreement on all issues except the
22 electric revenue requirement.

23 Q. Okay. Within the timing sequence,
24 Mr. Howard's statement of withdrawal and the meeting
25 between Mr. McCall and Attorney General Stumbo, what

1 was the sequence of that?

2 A. That's a good question, and my memory
3 is a little vague in that area. I believe that --
4 it's my recollection that Mr. Howard made that
5 announcement prior to the meeting with Attorney
6 General Stumbo and John McCall.

7 Q. Did the meeting with Attorney General
8 Stumbo and Mr. McCall occur after the press
9 conference or before; do you recall?

10 A. I don't recall.

11 Q. Who else besides Mr. McCall
12 participated in the meeting with Attorney General
13 Stumbo?

14 A. I'm not sure if anyone did. Kendrick
15 Riggs may have, but I don't recall.

16 Q. Do you know whether Mr. Howard
17 participated or not?

18 A. I don't recall.

19 Q. After the press conference, what do
20 you recall of the events of May 5th, after that, if
21 anything?

22 A. I recall a fair amount of discussion
23 among our team on whether or not we were willing to
24 sign what would be left of the agreement, which was a
25 unanimous settlement on all issues except the

1 electric revenue requirement and a partial
2 stipulation signed by all parties other than the
3 attorney general on the electric revenue requirement.

4 Q. And that's an internal discussion.

5 A. An internal discussion.

6 Q. No further discussions with any of the
7 other parties?

8 A. Not that I recall.

9 Q. Any evidence taken on May the 5th?

10 A. I don't recall if the hearing resumed
11 that day or the following morning. It's my
12 recollection that it wasn't -- it did not resume
13 until the following morning.

14 Q. Were there discussions by the parties
15 into the evening?

16 A. Yes. Again, this -- the whole period
17 of these two weeks seem like one long day at that
18 point.

19 Q. I understand. Were the parties, after
20 the attorney general appeared for the press
21 conference, were the parties continuing to negotiate
22 revenue requirement or was that issue put aside and
23 the parties just agreed to litigate that?

24 A. I think the issue was essentially put
25 aside because all other parties had agreed to it.

1 The attorney general was indicating that they would
2 not agree to it, so we were essentially resigned to
3 the fact that we were going to hearing on that issue.

4 Q. Is that what actually occurred?

5 A. Yes.

6 Q. Okay. May the 6th, were you in
7 attendance on May the 6th?

8 A. Yes, I was.

9 Q. Do you have a recollection of the
10 events of May the 6th?

11 A. I do.

12 Q. Tell me what you recall.

13 A. I recall the hearing resuming. And I
14 believe Richard Raff, as counsel for the commission,
15 raised the issue of claims that had been made in the
16 press by Attorney General Stumbo related to claims of
17 collusion and ex parte communications. So as I
18 recall, I believe he asked of every attorney that had
19 participated in that discussion as to whether or not
20 they were aware of any such communication, including
21 the representatives of the attorney general's office.

22 Q. And what was the response?

23 A. My recollection was the response was
24 no one had any affirmative knowledge of any collusion
25 and/or ex parte communications.

1 Q. Okay. Anything else you recall of the
2 events of May the 6th?

3 A. We had also -- I don't remember if it
4 was May 6th or May 7th -- I believe the hearing
5 lasted two days. Ultimately we began to offer
6 witnesses. The attorney general's office offered
7 witnesses, and we -- which were subject to
8 cross-examination related to the electric revenue
9 requirements, specific issues underlying that. We
10 had also offered up Mike Beer as a witness in support
11 of the unanimous settlement and partial stipulation
12 that had been reached among the parties.

13 Q. Is it a fair statement to say that by
14 the conclusion of the hearing of testimony that all
15 issues had been agreed upon and submitted in a
16 settlement agreement other than revenue requirement
17 on electricity?

18 A. Yes. And that matter remained opened
19 and debated between the attorney general and the
20 companies.

21 Q. Okay. And testimony obviously was put
22 in on that particular issue.

23 A. Yes. I believe all other parties
24 withdrew any testimony that they had previously
25 offered on the -- on any matter, including the

1 electric revenue requirement.

2 Q. Do you have any recollection of having
3 participated in the North American Stainless
4 discussions?

5 A. I did not participate in any
6 individual negotiations. There were different
7 representatives from our company that participated in
8 those negotiations.

9 Q. Do you have a recollection that those
10 matters were resolved as of the close of evidence on
11 May the 6th, 2004?

12 A. Yes. It's my understanding that those
13 matters were resolved.

14 Q. Okay. Do you have a recollection of
15 those discussions being reported to the full group
16 and incorporated into the settlement agreement?

17 A. Yes, they were.

18 Q. Okay. May the 12th would have been
19 the next scheduled hearing date.

20 A. Okay.

21 Q. All right. Do you have a recollection
22 of having appeared on May the 12th?

23 A. Actually, now that you mention that, I
24 believe May 12th is when we had obtained all
25 signatures on the final settlement agreement and

1 submitted that. And I think it was at that point
2 that we actually offered up Mike Beer as a witness in
3 support of that agreement.

4 Q. Anything else you recall of the events
5 of May 12th?

6 A. No.

7 Q. Any negotiations with any of the
8 parties between May 6th and May the 12th that you can
9 recall?

10 A. Not that I recall, no.

11 Q. With regard to the staff's
12 participation -- you described it for me as you saw
13 it on April the 28th and again on May the 4th. Did
14 it -- their participation change any on May the 5th,
15 6th and/or 12th --

16 A. No.

17 Q. -- or were they in the same role?

18 A. No. When -- at any time when parties
19 convene to attempt to negotiate settlement, their
20 role, as I saw it, remained consistent throughout.

21 Q. And I think you described it as a
22 facilitator?

23 A. Yes.

24 Q. Okay. Now, let me ask you between
25 April 28, 2004 and the actual decision, which I'm

1 representing to you was June 30th, 2004, did you have
2 any contact, other than what you've told me about,
3 with the Public Service Commission staff about the
4 rate cases?

5 A. Not that I recall.

6 Q. And let me ask you that same question
7 with regard to commission members. Any conversations
8 with them about the rate cases during that period of
9 time?

10 A. No.

11 Q. Are you familiar, as a layman, with
12 the term "ex parte communication"?

13 A. Yes, I am.

14 Q. Tell me what your general
15 understanding of that is.

16 A. My general understanding would be any
17 communication in this case with the Public Service
18 Commission regarding the substance of an open
19 proceeding with the intent of influencing the
20 outcome.

21 Q. Using that as a definitional standard,
22 did you participate in anything you believed to be an
23 ex parte communication?

24 A. Absolutely not.

25 Q. Okay. Did you witness anybody, be it

1 LG&E/KU personnel or interveners, who you believed
2 were participating in ex parte communication?

3 A. Absolutely not.

4 Q. And finally, while we all can have a
5 different definition of what is inappropriate or
6 collusive, did you witness any behavior that you
7 thought was inappropriate or evidence of collusive
8 behavior during this period of time, being April 28,
9 2004 through June 30th, 2004?

10 A. No, other than, again, the fact that
11 12 or so parties did reach a settlement agreement.
12 Obviously they met together. And if you define that
13 as collusion, then yes, there was collusion. But,
14 again, it involved all parties of the case discussing
15 as a group the issues of the case with everyone's
16 knowledge. So I do not consider that inappropriate.

17 Q. Did you consider that collusive?

18 A. No. I just didn't know how far we
19 were going to stretch the definition of collusion.

20 Q. Just your personal definition,
21 Mr. Blake.

22 A. Okay.

23 Q. You did not consider the settlement
24 negotiations collusive, did you?

25 A. No, I did not.

1 MR. GOLDBERG: Okay. Fair enough.
2 That's all I have, sir. Thank you.

3 THE WITNESS: Thank you.

4

5 (STATEMENT CONCLUDED AT 3:30 P.M.)

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STATE OF KENTUCKY) (
) (SS:
COUNTY OF JEFFERSON) (

I, ELLEN L. COULTER, Notary Public, State of Kentucky at Large, hereby certify that the foregoing sworn statement was taken at the time and place stated in the caption; that the appearances were as set forth in the caption; that prior to giving testimony the witness was first duly sworn by me; that said testimony was taken down by me in stenographic notes and thereafter reduced under my supervision to the foregoing typewritten pages and that said typewritten transcript is a true, accurate and complete record of my stenographic notes so taken.

I further certify that I am not related by blood or marriage to any of the parties hereto and that I have no interest in the outcome of captioned case.

My commission as Notary Public expires
November 5, 2007. 7710

Given under my hand this the 2nd
day of August, 2005, at Louisville,
Kentucky.

Elmer Coulter

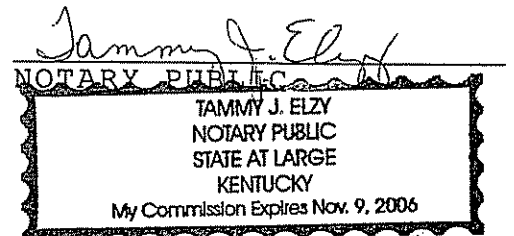
ELLEN L. COULTER
NOTARY PUBLIC

1 I, the undersigned, KENT BLAKE, do hereby
2 certify that I have read the foregoing sworn
3 statement, and that, to the best of my knowledge,
4 said sworn statement is true and accurate, with the
5 exception of the corrections, if any, listed on the
6 errata sheet.

7
8 Kent W. Blake

9 KENT BLAKE

10
11 Subscribed and sworn to before me this 3rd
12 day of October, 2005.



My commission expires _____

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LOUISVILLE, KY 40203

ERRATA SHEET

NAME KENT BLAKE DATE OF DEPOSITION 8/10/05

After having read my deposition, I wish to make the following changes: None

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